



July 30, 1999

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
501 Police & Courts Building
Dallas, Texas 75201

OR99-2144

Dear Ms. Middlebrooks:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126236.

The Dallas Police Department (the "department") received a request for various personnel complaint records. You contend that portions of the responsive information are protected from disclosure under the common-law privacy aspect of section 552.101 of the Government Code. We have reviewed the records at issue and will address your arguments.

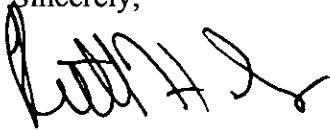
The test for whether information should be withheld from disclosure under common-law privacy is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977). The type of information the supreme court considered intimate and embarrassing included information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* We agree that some of the marked information is protected from disclosure in order to protect an individual's right of privacy. However, some of the marked information concerns the work performance of public employees and also possible criminal conduct. There is a legitimate public interest in this type of information, even if it is intimate and embarrassing information. Open Records Decision Nos. 470 at 4 (1987) (public has a legitimate interest in the job performance of public employees); 423 at 2 (1984) (scope of public employee privacy is narrow). We have marked the records to show the information that is protected from disclosure under common-law privacy.

We also have marked information that appears to be confidential under section 552.117 of the Government Code. Sections 552.024 and 552.117 provide that a public employee or

official can opt to keep private his or her home address, home telephone number, social security number, or information that reveals that the individual has family members. Section 552.117 also provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members. *See* Open Records Decision No. 622 (1994) (section 552.117 excepts from disclosure former home addresses and former home telephone numbers). The information that we have not marked as protected from disclosure must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref: ID# 126236

Encl. Submitted documents

cc: Mr. Dave Michaels
P.O. Box 655237
Dallas, Texas 75265
(w/o enclosures)